

ASSEMBLY BILL

No. 2187

Introduced by Assembly Member Arambula

February 18, 2010

An act to add Section 1199.6 to the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2187, as introduced, Arambula. Employment: payment of wages.

Existing law makes it a misdemeanor for a person or employer who, having the ability to pay, willfully refuses to pay wages to due to a current employee, an employee who has resigned, or an employee who has been discharged. Under existing law, a person found guilty of this crime must pay restitution to the employee to whom wages are owed. Existing law also imposes civil penalties against a person or employer who wrongfully fails to pay wages.

This bill would create a separate prohibition against a person or an employer who, having the ability to pay, willfully fails to pay all wages due to an employee who has been discharged or who has quit within 90 days of the date of the wages becoming due and would impose additional criminal penalties for such conduct. The bill would also require a person or employer who violates these provisions to pay restitution in an amount equal to the amount of unpaid wages to the aggrieved employee and prosecution costs, upon conviction becoming final.

Because this bill would create a new crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares the following:

2 (a) Many criminal fines and other penalties and California's
3 statutory provisions that relate to the payment of wages have not
4 been strengthened in decades and lag behind other jurisdictions,
5 which have both increased criminal penalties and enacted civil
6 remedies to encourage employers to pay wages promptly when
7 due.

8 (b) The development of a single statutory scheme addressing
9 the theft of wages and imposing significant penalties for
10 committing such theft sends an appropriate message to prosecutors
11 to aggressively pursue violators and ensures that restitution of
12 unpaid wages to aggrieved employees is a central focus of
13 prosecutions for theft of wages.

14 SEC. 2. Section 1199.6 is added to the Labor Code, to read:

15 1199.6. (a) In addition to any other penalty imposed, an
16 employer or other person acting either individually or as an officer,
17 agent, or employee of another person is guilty of a misdemeanor
18 and is punishable by a fine of not less than one thousand dollars
19 (\$1,000) and not more than ten thousand dollars (\$10,000), or by
20 imprisonment in a county jail for not more than six months, or by
21 both, who, having the ability to pay, willfully fails to pay all wages
22 due to an employee who has been discharged or who has quit
23 within 90 days of the date that those wages became due.

24 (b) Upon a finding of a violation of subdivision (a), the violating
25 employer or person shall pay restitution to the aggrieved employee
26 in an amount equal to the total amount of unpaid wages.

27 (c) An employer or person who violates subdivision (a), upon
28 conviction becoming final and unappealable, shall pay all
29 reasonable costs of prosecution to the entity that prosecutes. For

1 purposes of this subdivision, “conviction” means a verdict of guilty
2 or a plea of guilty or nolo contendere.

3 SEC. 3. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.